

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:08-CR-82-BR  
No. 5:11-CV-658-BR

ANTWON DEMETRIUS PEACOCK,  
Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Respondent.

## ORDER

Having conducted an examination of petitioner's motion pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings and it appearing that dismissal is not warranted at this time, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 Motion to Vacate, Set Aside or Correct Sentence, within **forty (40)** days of the filing of this order. Because petitioner asserts a challenge to his sentence based on the recent decision of United States v. Simmons, 649 F.3d 237 (4<sup>th</sup> Cir. 2011), pursuant to the standing order of this court No. 11-SO-3, the Office of the Federal Public Defender is appointed to represent petitioner in connection with these proceedings. The Clerk is DIRECTED to serve the Office of the Federal Public Defender with a copy of this order.

This 18 November 2011.

Mark Bittman

W. Earl Britt

## Senior U.S. District Judge